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December 19, 2016

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Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination & Legal Administration  
Federal Election Commission  
999 E. Street, N.W.  
Washington, D.C. 20463

Re: MUR 7155

Dear Mr. Jordan:

On behalf of Hillary for America and José H. Villarreal in his official capacity as Treasurer ("Respondents"), we submit this letter in response to the complaint filed by the Public Interest Legal Foundation ("Complainants") on October 20, 2016 (the "Complaint"), alleging a violation of the Federal Election Campaign Act of 1971, as amended ("the Act"), or Federal Election Commission ("FEC or "Commission") regulations. The Complaint presents no reason to believe that Respondents committed any violation of the Act. The Commission should accordingly dismiss the Complaint, close the file and take no further action.

The Complaint makes three allegations against Respondents:

*First*, it claims that Respondents coordinated voter registration and get-out-the-vote drives with "Americans United for Change and Voces de la Frontera Action and other unknown groups" in violation of 11 C.F.R. § 114.4 (2016).<sup>1</sup> The sole sources for this allegation are press releases issued by Americans United for Change and Voces de la Frontera Action, which describe programs contemplated by the groups. The Complaint provides no evidence that these programs were actually undertaken, and it offers no examples of any communication that either group actually issued, besides the press release.

*Second*, it claims that Respondents coordinated, directed, requested and approved the recruitment of individuals to attend and protest at rallies featuring the Republican presidential and vice presidential candidates, Donald J. Trump and Representative Mike Pence, in violation of 11 C.F.R. § 109.21(c).<sup>2</sup> This allegation hinges on two videos produced and published by a group called Project Veritas Action, which surreptitiously recorded, edited and published comments

<sup>1</sup> Compl. at 2.

<sup>2</sup> See *id.*

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made by political consultants Scott Foval and Robert Creamer.<sup>3</sup> The Complaint tries to corroborate the video-derived allegations with a news article describing protests at a Trump rally in Chicago,<sup>4</sup> and another article describing the use of a costumed duck to follow the Republican presidential candidate.<sup>5</sup>

*Third*, the Complaint makes a sweeping and unsupported claim that “all public communications... done by Americans United for Change... were done at or with the direction, approval, suggestion, or after material discussion regarding the timing, content, and audience of the communications, of the DNC and Hillary for America campaign.”<sup>6</sup> Again, besides the aforementioned press release, the Complaint provides no example of any public communication issued by Americans United for Change, let alone one that was coordinated with Respondents.

The Complaint fails to present an allegation of prohibited coordination by Respondents and Respondents categorically deny that any such coordination occurred. A public communication must satisfy a three-prong test to be considered a coordinated communication: it must (1) be paid for by a person other than a candidate, authorized committee or political party committee with which it is coordinated; (2) satisfy one or more content standards; and (3) satisfy one of several conduct standards.<sup>7</sup>

Yet the Complaint identifies no communication that would meet the content standard. Nor does it allege any activity by Respondents that would meet any conduct standard. Regarding the voter registration and get-out-the-vote drives allegedly undertaken by Americans United for Change and Voces de la Frontera Action, the Complaint identifies no communication that was distributed by either group, except for the press releases at Exhibits A and B. Nor does it present any conduct by Respondents that would have pertained to these activities, had they indeed occurred. Regarding the recruitment of protestors, even if one were to assume the authenticity of the spurious videos from which the allegation is derived, the Complaint still presents no claim of coordination. Again, it identifies no communication that meets the conduct standard, and no activity by Respondents that would meet the conduct standard, except for the vague implication that the campaign was aware of the protests.

The Commission may find “reason to believe” only if a Complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Act.<sup>8</sup> For claims of coordination, the Commission requires an even stronger showing: that Complainant provide “probative

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<sup>3</sup> Exhibit E. The Complaint includes a putative transcript of the videos, apparently created by Complainant himself, as Exhibit F.

<sup>4</sup> See Exhibit C.

<sup>5</sup> See Exhibit D.

<sup>6</sup> Compl. at 3.

<sup>7</sup> 11 C.F.R. § 109.21.

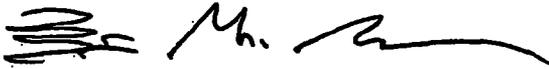
<sup>8</sup> 11 C.F.R. § 109.21(a).

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information of coordination.”<sup>9</sup> The Complaint fails to meet either standard with respect to Respondents. Accordingly, we request the Commission find no reason to believe Respondents committed any violation of the Act and dismiss this matter immediately.

We appreciate the Commission’s consideration of this response.

Very truly yours,



Marc E. Elias  
Brian G. Svoboda  
Courtney Weisman  
Counsel to Respondents

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<sup>9</sup> Factual and Legal Analysis, Matter Under Review 5754 (MoveOn.org Voter Fund), at 3-4.